

4 April 2023

COUNCIL RESOLUTION: 23-01

**Instructions to the Secretariat of the Commission for Environmental Cooperation (CEC) regarding submission SEM-20-001 loggerhead turtle (*Caretta caretta*), which asserts that the Mexican environmental authorities are failing to effectively enforce provisions of the Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*—CPEUM), the General Law of the Ecological Balance and the Protection of the Environment (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*—LGEEPA), the General Wildlife Law (*Ley General de Vida Silvestre*—LGVS), the Internal Regulations of the Ministry of Environment and Natural Resources (*Reglamento Interior de la Secretaría de Medio Ambiente y Recursos Naturales*—RI-SEMARNAT), the Agreement Establishing a Ban on Marine Turtle Species and Subspecies in the Waters of Federal Jurisdiction of the Gulf of Mexico and the Caribbean Sea, as well as in the Pacific Ocean, including the Gulf of California (*Acuerdo por el que se establece veda para las especies y subespecies de tortuga marina en aguas de jurisdicción federal del Golfo de México y Mar Caribe, así como en las del Océano Pacífico, incluyendo el Golfo de California*—“Closed Season Agreement”); the Agreement establishing the area of refuge for the loggerhead turtle (*Caretta caretta*) in the Gulf of Ulloa, in Baja California Sur (*Acuerdo por el que se establece el área de refugio para la tortuga amarilla (Caretta caretta) en el Golfo de Ulloa, Baja California Sur*—“Turtle Refuge Agreement”); and the Agreement Establishing the Fishing Refuge Area and New Measures to Reduce the Possible Interaction of Fishing with Sea Turtles on the West Coast of Baja California Sur (*Acuerdo por el que se establece la zona de refugio pesquero y nuevas medidas para reducir la posible interacción de la pesca con tortugas marinas en la costa occidental de Baja California Sur*—“Fish Refuge Agreement”), regarding the protection and conservation of the loggerhead turtle (*Caretta caretta*), a species whose conservation is a priority, and which is endangered by extinction.**

THE COUNCIL:

CONSIDERING that the Submissions on Enforcement Matters (SEM) process and the preparation of factual records is now governed by Articles 24.27 and 24.28 of the United States-Mexico-Canada Agreement (USMCA) and the new Agreement on Environmental Cooperation (ECA) between the three countries, which superseded the North American Environmental Cooperation Agreement (NAAEC);

AFFIRMING that the SEM process, which may include the preparation of factual records, is designed to increase public participation and promote transparency and openness on issues related to the effective enforcement of environmental law in Canada, Mexico, and the United States;

RECOGNIZING that the purpose of a factual record is to provide an objective presentation of the facts relevant to the assertion(s) set forth in a submission, and will generally outline the history of the environmental enforcement issue raised in the submission, the relevant legal obligations of the Party, and the actions of the Party in fulfilling those obligations;

HAVING CONSIDERED submission SEM-20-001, dated 17 December 2020, filed by the submitters, and Mexico's response, dated 28 May 2021;

HAVING REVIEWED the Secretariat's Notification, dated 27 July 2021, presenting its reasons to recommend the preparation of a factual record, with respect to the effective enforcement of: Article 4 (fifth paragraph) of the CPEUM; Article 5: Section XIX, 161, 171, 182 (first paragraph) and 202 (first paragraph) of the LGEEPA; Article 5: Section III, 9: Sections X and XXI, 60 (first paragraph), 60 bis 1 (first paragraph), 62, 104 of the LGVS; Articles 45: Sections I, II, V, subparagraphs a) and c), VI, X, XI and XII and 70: Sections I, III, IV and XIII of the RI-SEMARNAT; the Closed Season Agreement; the Turtle Refuge Agreement and the Fish Refuge Agreement;

PURSUANT TO Article 2.3 of the ECA, and taking into account the Council's policy of providing its reason(s) for the instructions to prepare a factual record and publication of the reasoning on the SEM public registry;

**HEREBY UNANIMOUSLY DECIDES:**

**TO INSTRUCT** the Secretariat to prepare a factual record on the effective enforcement of the following provisions:

- A. Article 4 (fifth paragraph) of the CPEUM, 182 (first paragraph), 202 (first paragraph) of the LGEEPA, and 45: Sections II, XI and XII of the RI SEMARNAT on the alleged failure to file complaints with the Federal Public Prosecutor (*Fiscalía General de la República*) for the death of specimens of the loggerhead turtle (*Caretta caretta*) in the Gulf of Ulloa, Baja California Sur, for the period 2010 to July 2020;
- B. Articles 5: Sections XIX, 161 and 171 of LGEEPA; 9: Section XXI, and 104 of LGVS; 45: Sections I, V a) and c), VI and X of RI SEMARNAT; with regard to the conduct of an average of 2 inspection and monitoring visits per year and the failure to impose administrative sanctions related to the loggerhead turtle in the Gulf of Ulloa, Baja California Sur, during the period 2010-July 2020;
- C. Articles 60 (first paragraph) and 62 of the LGVS and 70: Sections I, III, IV and XIII of the RI SEMARNAT, regarding the promotion and development of conservation activities, their updating and evaluation, in the Gulf of Ulloa, Baja California Sur, during the period 2017 to 2019;
- D. The Closed Season Agreement, the Turtle Refuge Agreement, and the Fish Refuge Agreement, with respect to the effectiveness of instruments to reduce by-catch and the alleged lack of mechanisms to review the measures implemented.

**APPROVED BY THE COUNCIL:**

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Stephen de Boer  
Government of Canada

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Miguel Ángel Zerón Cid  
Government of the United Mexican States

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Jane Nishida  
Government of the United States of America